

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

ROSIE TINEO, and
LEDYS LIZ,

Defendants.

COUNT ONE

(Conspiracy to Commit Health Care Fraud)

The Grand Jury charges:

Background

1. The New York State Medicaid Program (the "Medicaid Program") is a federal and state funded plan, affecting commerce, that serves individuals and families who meet specified financial and other eligibility requirements, and certain other individuals who lack adequate resources to pay for medical care. The Medicaid Program provides payment for medical services and products ranging from routine preventive medical care for children to institutional care for the elderly and disabled. Among the specific medical services and products provided by the Medicaid Program are prescription drugs. The Medicaid Program reimburses service providers, such as physicians and pharmacies, directly for any medications or services provided to Medicaid Program beneficiaries.

FILED UNDER SEAL

INDICTMENT

08 Cr.

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2. At all times relevant to this Indictment, Rosa Pharmacy was located in New York, New York, and was enrolled in the New York State Medicaid Program as a service provider.

3. At all times relevant to this Indictment, ROSIE TINEO, the defendant, worked as a pharmacy technician at Rosa Pharmacy.

4. At all times relevant to this Indictment, LEDYS LIZ, the defendant, recruited Medicaid beneficiaries to become customers of Rosa Pharmacy.

The Fraudulent Scheme

5. As a Medicaid enrolled pharmacy, Rosa Pharmacy was supposed to dispense prescription drugs to Medicaid beneficiaries, submit claims to the Medicaid Program for reimbursement for those drugs, and receive payments from the Medicaid Program.

6. Between in or about May 2007 and in or about February 2008, ROSIE TINEO and LEDYS LIZ, the defendants, and others known and unknown, engaged in a scheme to defraud the Medicaid Program into paying reimbursements to Rosa Pharmacy for prescription drugs that were not in fact dispensed to Medicaid beneficiaries. As a part of the scheme, LIZ recruited Medicaid beneficiaries to provide her with their Medicaid cards and prescriptions, which she then provided to TINEO. TINEO, working at Rosa Pharmacy, then billed the Medicaid Program for various

prescription drugs, including drugs for which there was no legitimate prescription. TINEO and LIZ then diverted those prescription drugs for re-sale on the street, and TINEO paid some fraction of the proceeds to the Medicaid beneficiaries.

7. Through this fraudulent scheme, ROSIE TINEO and LEDYS LIZ, the defendants, and others known and unknown, profited by pocketing the difference between the total proceeds from their illegal sales of the diverted drugs and the amounts that TINEO, and others known and unknown, paid to the Medicaid beneficiaries.

Statutory Allegation

8. From in or about May 2007 through in or about February 2008, in the Southern District of New York and elsewhere, ROSIE TINEO and LEDYS LIZ, the defendants, and others known and unknown, unlawfully, knowingly, and wilfully combined, conspired, confederated and agreed together and with each other to commit health care fraud, in violation of Title 18, United States Code, Section 1347.

Object of the Conspiracy

9. ROSIE TINEO and LEDYS LIZ, the defendants, and others known and unknown, unlawfully, wilfully, and knowingly, would and did execute, and attempt to execute, a scheme and artifice to defraud a health care benefit program, to wit, the Medicaid Program, and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property

owned by, and under the custody and control of, a health care benefit program, to wit, the Medicaid Program, in connection with the delivery of and payment for health care benefits, items, and services, to wit, prescription drugs, in violation of Title 18, United States Code, Section 1347.

The Means And Methods Of The Conspiracy

10. Among the means and methods by which ROSIE TINEO and LEDYS LIZ, the defendants, and others known and unknown, would and did carry out the conspiracy were the following:

- a. LIZ recruited Medicaid beneficiaries who presented prescriptions and their Medicaid cards to the defendants, and others known and unknown, in exchange for cash and/or merchandise instead of the prescribed medications;
- b. TINEO, and others known and unknown employed at Rosa Pharmacy, submitted and caused to be submitted phony claims to the Medicaid Program for reimbursement for the prescription drugs that had purportedly been provided to the beneficiaries, but which, in truth and in fact, had never been dispensed to the Medicaid beneficiaries; and
- c. TINEO diverted the prescription drugs the

Medicaid Program paid for, and caused drugs to be sold on the street.

Overt Acts

11. In furtherance of the conspiracy and to effect the object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

- a. On or about May 2, 2007, LEDYS LIZ, the defendant, took an active Medicaid card from an undercover Medicaid Program investigator officer posing as a Medicaid beneficiary (the "UC"), and promised to pay the UC for use of the card;
- b. On or about September 14, 2007, ROSIE TINEO and LEDYS LIZ, the defendants, met with the UC at LIZ's apartment and during that meeting:
 - i. TINEO wrote prescriptions for the UC for five drugs using blank prescriptions; and
 - ii. TINEO then directed the UC to report to Rosa Pharmacy the next day to fill the fraudulent prescriptions.
- c. On or about September 15, 2007, LIZ visited Rosa Pharmacy with the UC, and during that

visit:

- i. ROSIE TINEO, the defendant, who was working behind the counter, filled the five fraudulent prescriptions that she had completed the previous night;
- ii. Rosa Pharmacy billed the Medicaid Program for the full reimbursement value of those drugs; and
- iii. LIZ received the actual drugs from the UC, who had been directed to give them to her;

- d. On or about September 26, 2007, LIZ paid the UC approximately \$160 for the five prescriptions that had been filled at Rosa Pharmacy on or about September 15, 2007; and
- e. On or about February 25, 2008, in response to the UC's complaint about LIZ's delay in paying him kickbacks, TINEO assured the UC, in sum and substance, that in the future TINEO would make payment as soon as the drugs were sold or earlier.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Health Care Fraud)

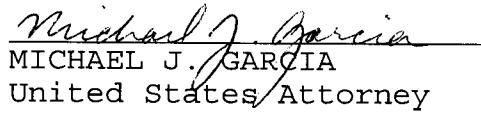
The Grand Jury further charges:

15. The allegations contained in Paragraphs 1 through 7, and 10 through 11 are repeated and realleged as if set forth fully herein.

16. From in or about May 2007 through in or about February 2008, in the Southern District of New York and elsewhere, ROSIE TINEO and LEDYS LIZ, the defendants, and others known and unknown, unlawfully, wilfully, and knowingly, executed and attempted to execute a scheme and artifice to defraud a health care benefit program, to wit, the Medicaid Program, and to obtain, by means of false and fraudulent pretenses, representations, and promises, money and property owned by, and under the custody and control of, a health care benefit program, to wit, the Medicaid Program, in connection with the delivery of and payment for health care benefits, items, and services, to wit, the defendants defrauded the Medicaid Program into paying for prescription drugs that were not dispensed to Medicaid beneficiaries.

(Title 18, United States Codes, Sections 1347 and 2.)


FOREPERSON


MICHAEL J. GARCIA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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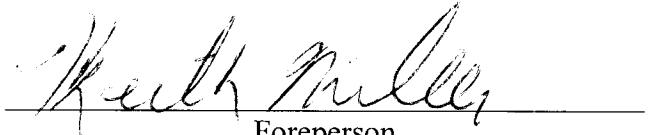
INDICTMENT

08 CR ____

(Title 18, United States Code, Sections 1349,
1347 & 2.)

Michael J. Garcia
United States Attorney.

A TRUE BILL



Foreperson.

Indictment filed under seal. A/Ws issued for
both Def.s.

SRT
7/22/08

— Francis, J